

LIOR KATZ | CA BAR No. 284559
KATZ LAW, APC
11620 Wilshire Blvd., Suite 900
Los Angeles, California 90025
Tel: (310) 444-9444
Fax: (310) 382-2110
Email: Lior@KatzLaw.com

Attorneys for Movant
BRIAN ANTHONY FREITAS

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

In re

PG&E CORPORATION and
PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

**Affects Pacific Gas and Electric Company*

* All papers shall be filed in the Lead Case,
No. 19-30088 (DM)

Bk. No.: 19-30088-DM

R.S. No: KL-3

Chapter 11

DECLARATION OF ROY HUNTSMAN IN
SUPPORT OF MOTION FOR RELIEF
FROM AUTOMATIC STAY AND
MODIFICATION OF PLAN INJUNCTION,
OR ALTERNATIVELY, FOR ABSTENTION
UNDER 28 U.S.C. 1334(C)(1)

Hearing -

Date: June 15, 2021

Time: 10:00 a.m.

Place: United States Bankruptcy Court
450 Golden Gate Avenue, 16th Floor
Courtroom 17
San Francisco, CA

Honorable Dennis Montali

I, ROY HUNTSMAN, declare and state:

1. My name is ROY HUNTSMAN, and my business address is 28494 Westinghouse Place
#311, Valencia, CA 91355. I am not a party to this lawsuit. I have personal knowledge of the facts
stated herein, and if called as a witness, I could and would competently testify thereto.

2. I am an attorney duly licensed to practice before the Superior Court in the State of

1 California.

2 3. I currently serve as the attorney for Movant Brian Anthony Freitas in his state court
3 lawsuit brought in Superior Court of the State of California, County of Merced (Case no. 17CV-
4 03528), on October 18, 2017 (“State Court Lawsuit”) against Debtor Pacific Gas and Electric
5 Company and an individual named Daryl Michael Mello.

6 4. The State Court Lawsuit was filed as a result of an auto v. auto incident that took place
7 on October 20, 2015. On that day, Movant was driving a 2001 Toyota Corolla travelling
8 northbound on SR-165, near the intersection of Santa Fe Grade. At the same time and place, an
9 individual named Daryl Michael Mello (“Mr. Mello”), who was employed by Debtor Pacific Gas
10 Electric Company (“Debtor”), was driving a vehicle owned by the Debtor, a 2014 GMC Sierra.
11 While driving, Mr. Mello was distracted and rear-ended Debtor’s vehicle (which was stopped) at a
12 speed of 65 mph. The impact was so great that Debtor’s vehicle travelled forward and collided
13 with a third vehicle. Movant sustained severe injuries as a result of the incident and was
14 transported to the hospital.
15

16 5. The injuries to Movant included, but were not limited to, sprain in the cervical and
17 lumbar spine, contusion of face, chronic pain syndrome, concussion, traumatic brain injury,
18 headaches, dizziness, Thoracic Outlet Syndrome, Sacroiliac joint injury, and vertigo. Movant
19 received treatment continuously for at least two years post-incident, including orthopedic and
20 neurological evaluations, chiropractic treatment, cortisone shots, physical therapy, and other
21 treatment to help alleviate his pain. Movant continues to have bilateral arm peripheral neuropathy,
22 right more than left. He is right-handed. His cephalgia, neck pain, upper back pain, mid-back pain
23 and low back pain are unchanged and continue to constantly plague him. His hips, right more than
24 left still bother him and limit his activities. The past medical expenses that Movant is responsible
25 for were \$86,488.75.
26
27
28

1 6. As a result of these injuries, Movant proceeded with filing a personal injury lawsuit
2 against Mr. Mello and Debtor (collectively known herein as “Defendants”) in the Superior Court
3 of the State of California, County of Merced (Case no. 17CV-03528), on October 18, 2017 (“State
4 Court Lawsuit”). A true and correct copy of the Summons and Complaint is attached hereto as
5 **Exhibit “A”**. A true and correct copy of the docket for the State Court Lawsuit is attached hereto
6 as **Exhibit “B”**.

7
8 7. The State Court Lawsuit was originally filed by another attorney named Michael H.
9 Silvers, but I later substituted-in as attorney of record for Movant on or about January 23, 2019.

10 8. After the lawsuit was filed, Movant and the Defendants in the State Court Lawsuit
11 engaged in written discovery for more than a year. A deposition of Movant was also taken. Trial in
12 the State Court Lawsuit was expected to take place in the Spring or Summer of 2019, but the
13 instant bankruptcy was filed before then. In order to prepare for trial, Movant will need to take
14 oral depositions and conduct expert discovery. Movant has been unable to accomplish that and
15 now seeks relief from the automatic stay to bring this six-year old case into resolution by way of a
16 trial in state court.

17
18 9. Debtor filed the instant bankruptcy on January 29, 2019, largely due to wildfire-related
19 claims against the Debtor. After the instant bankruptcy was filed, Movant filed a Proof of Claim
20 on or about September 16, 2019 (Claim No. 9137).

21 10. The automatic stay that came about as a result of this bankruptcy has prevented
22 Movant from proceeding with his State Court Lawsuit. Additionally, Debtor’s confirmed Chapter
23 11 Plan also contains what appears to be an injunction preventing Movant from proceeding with
24 his State Court Lawsuit. After receiving a Notice of Standard Mediation from the Debtor, Movant
25 and I had participated in a mediation on March 26, 2021. Nonetheless, Movant’s claim did not
26
27
28

1 resolve at the mediation. Since then, my client's State Court Lawsuit has been in limbo.

2 11. I attempted to stipulate with Debtor's counsels to relief from the automatic stay so that
3 my client's claim can be liquidated in State Court. However, my efforts have been unsuccessful.
4 Movant now requests that the Court vacate the automatic stay and modify any applicable
5 injunction in the confirmed Chapter 11 Plan to allow Movant to proceed with his State Court
6 Lawsuit and receive his "day in Court" to resolve this 3.5-year-old lawsuit.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.
9

10 Executed this 13 day of May 2021 at Los Angeles, California.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ROY HUNTSMAN

EXHIBIT “A”

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
Merced Superior Court
10/18/2017 10:43 AM
Linda Romero Soles
Clerk of the Superior Court
By: Elvira Cardenas, Deputy

**NOTICE TO DEFENDANT: PACIFIC GAS AND ELECTRIC COMPANY,
(AVISO AL DEMANDADO):** a corporation; DARYL MICHAEL
MELLO, an individual; and DOES 1 THROUGH 100,
Inclusive

**YOU ARE BEING SUED BY PLAINTIFF: BRIAN ANTHONY FREITAS
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER:
(Número del Caso): 17CV-03528

Superior Court, County of Merced
2260 N St.
P.O. Box 958
Merced, CA 95340

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
MICHAEL H. SILVERS, ESQ. SBN 64609 310-551-0551 310-445-9623
MICHAEL H. SILVERS, A LAW CORP
11500 WEST OLYMPIC BLVD., SUITE 322
LOS ANGELES, CA 90064

DATE: 10/18/2017
(Fecha)

Linda Romero-Soles

Clerk, by
(Secretario)

Elvira Cardenas
Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

(SEAL)



FILED
Merced Superior Court
10/18/2017 10:43 AM
Linda Romero Soles
Clerk of the Superior Court
By: Elvira Cardenas, Deputy

1 MICHAEL H. SILVERS, A Law Corporation
2 Michael H. Silvers, SBN: 64609
3 11500 Olympic Boulevard, Suite 322
4 Los Angeles, California 90064
5 Telephone: (310) 551-0551
6 Facsimile: (310) 445-9623

7 Attorneys for PLAINTIFF

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF MERCED**

10 BRIAN ANTHONY FREITAS, an individual

11 PLAINTIFF,

12 vs.

13
14 PACIFIC GAS AND ELECTRIC COMPANY, a
15 corporation; DARYL MICHAEL MELLO, an
16 individual; and DOES 1 THROUGH 100,
17 Inclusive.

18 DEFENDANTS.

CASE NO.: 17CV-03528

COMPLAINT FOR PERSONAL INJURIES
AND DAMAGES

[UNLIMITED JURISDICTION]

19
20 COMES NOW PLAINTIFF BRIAN ANTHONY FREITAS ("FREITAS," and/or,
21 "PLAINTIFF"), and for a cause of action against the DEFENDANTS PACIFIC GAS AND ELECTRIC
22 COMPANY, DARYL MICHAEL MELLO, and DOES 1 THROUGH 100 ("PACIFIC GAS,"
23 "MELLO," and/or, "DEFENDANT(S)") and each of them, complain and allege as follows:
24
25
26
27

28 //

FIRST CAUSE OF ACTION

GENERAL NEGLIGENCE

**(PLAINTIFF BRIAN ANTHONY FREITAS versus
DEFENDANTS PACIFIC GAS AND ELECTRIC COMPANY,
DARYL MICHAEL MELLO and DOES 1
THROUGH 100 and as to every DEFENDANT named herein)**

1. At all times herein mentioned, the following events occurred within the jurisdiction of this Court.

2. At all times herein mentioned, DEFENDANT THE HERTZ CORPORATION was and is a corporation existing and doing business in the State of California.

3. The true names and capacities, whether individual, corporate, associate or otherwise, of DEFENDANTS Does 1 through 100, inclusive, are unknown to PLAINTIFF at this time, who therefore sues said DEFENDANTS by such fictitious names. When the true names and capacities of said DEFENDANTS are ascertained, PLAINTIFF will amend this Complaint accordingly. PLAINTIFF is informed and believes, and therefore alleges that each of the DEFENDANTS designated herein fictitiously is responsible in some manner for the events and happenings herein referred to and caused injury and damages proximately thereby to PLAINTIFF as herein alleged.

4. At all times herein mentioned, DEFENDANTS, and each of them, were the agents, servants, and employees of their Co-DEFENDANTS, at all times herein mentioned acted within the course and scope of their employment and agency, and were operating said vehicles with the permission and consent of the owners thereof.

5. PLAINTIFF is informed and believes and therefore alleges that at all times herein mentioned, DEFENDANTS, and each of them, including but not limited to DEFENDANT PACIFIC GAS, MELLO, and DOES 1 THROUGH 25, were the operator and/or registered owner of a motor vehicle described as a 2014 GMC Sierra baring California license plate number 55242R1, was said vehicle was being driven with the permission and consent of the owners.

1 6. At all times herein mentioned, PLAINTIFF FREITAS was the driver of a motor vehicle
2 described as a 2001 Toyota Corolla bearing California license plate number 4PGB500, which was
3 involved in the collision hereafter described

4 7. At all times herein mentioned, State Route 165 ("SR-165") and Santa Fe Grade were and
5 are public highways traversing an Unincorporated Section of Merced County, California.

6 8. On or about October 20, 2015, PLAINTIFF FREITAS was driving a motor vehicle
7 described as 2001 Toyota Corolla bearing California license plate number 4PGB500, traveling
8 northbound on SR-165 at, near, or about its intersection with Santa Fe Grade when at said time and
9 place, DEFENDANTS, and each of them, so negligently, carelessly, recklessly, unskillfully, unlawfully,
10 tortiously, wantonly, and wrongfully, entrusted, permitted, managed, serviced, repaired, inspected,
11 maintained, operated, controlled and drove said motor vehicles so as to proximately cause said vehicle
12 to collide with the vehicle occupied by PLAINTIFF, thereby causing the severe injuries and damages to
13 PLAINTIFF as hereinafter described.

14 9. At all times herein mentioned, the DEFENDANTS, and each of them, negligently and
15 carelessly manufactured, constructed, repaired, installed and designed the DEFENDANTS' motor
16 vehicle and the parts thereof, so as to proximately cause the injuries and damages to PLAINTIFF as
17 hereinafter described.

18 9. As a direct and proximate result of the said negligence of the said DEFENDANTS, as
19 aforesaid, PLAINTIFF sustained and is certain in the future to sustain disabling, serious and permanent
20 injuries, pain, suffering, and mental anguish in connection therewith, all to PLAINTIFF'S general
21 damages, according to proof at trial, in an amount within the jurisdiction of this Court.

22 10. As a further, direct and proximate result of the said negligence of the said
23 DEFENDANTS, and each of them, as aforesaid, PLAINTIFF has incurred and will incur in the future,
24 medical, hospital, x-ray and sundry expenses in the examination, care and treatment of PLAINTIFF'S
25 injuries, within the jurisdiction of this Court, and in an amount according to proof at the time of trial.

26 11. As a further, direct and proximate result of the said negligence of the said
27 DEFENDANTS, as aforesaid, PLAINTIFF has been and will be unable to pursue her vocation, and have
28

1 therefore suffered and will suffer in the future loss of earnings and business profits, within the
2 jurisdiction of this Court, and in an amount according to proof at the time of trial.

3 12. As a further, direct and proximate result of the said negligence of the DEFENDANTS,
4 and each of them, as aforesaid, PLAINTIFF sustained damage and injuries to her personal property,
5 within the jurisdiction of this Court, and in an amount according to proof at the time of trial.
6

7 WHEREFORE, PLAINTIFF BRIAN ANTHONY FREITAS prays for Judgment on the FIRST
8 CAUSE OF ACTION against the DEFENDANTS, and each of them for:
9

10 1. For general damages for pain, suffering, and permanent disabilities in an amount
11 according to proof at trial;

12 2. For special damages for medical, x-ray, hospital and sundry expenses in an amount
13 according to proof at trial;

14 3. For past and future loss of earnings and loss of earning capacity in an amount
15 according to proof at trial;

16 4. For damage to property in an amount according to proof at trial;

17 5. For damage to personal property in an amount according to proof at trial;

18 6. For Costs of suit incurred herein;

19 7. For such further relief as the Court deems just and proper
20
21

22 DATED: October 13, 2017

MICHAEL H. SILVERS
A LAW CORPORATION


23
24
25 By: 
26 MICHAEL H. SILVERS
27 Attorneys for PLAINTIFFS
28

EXHIBIT “B”

Case Information

17CV-03528 | Brian Freitas vs Pacific Gas and Electricity, et al.

Case Number	Court	Judicial Officer
17CV-03528	Merced - Civil	McCabe, Brian
File Date	Case Type	Case Status
10/18/2017	(22): Unlimited Auto	Bankruptcy

Party

Plaintiff	Active Attorneys ▼
Freitas, Brian Anthony	Lead Attorney
	Huntsman, Roy Edward
	Retained

Defendant	Active Attorneys ▼
Pacific Gas and Electricity	Lead Attorney
	Frankenberger, David
	Retained

Attorney
Buttry, William G
Retained

Defendant	Active Attorneys ▼
Mello, Daryl Michael	Lead Attorney
	Frankenberger, David
	Retained

Attorney
Buttry, William G
Retained

Events and Hearings

10/18/2017 Civil Case Cover Sheet ▼
Civil Case Cover Sheet
10/18/2017 Complaint ▼
Complaint
10/18/2017 Summons - Filed ▼
Summons
10/19/2017 Notice of Inclusion of CMC ▼
Notice of Inclusion of CMC
01/16/2018 Proof of Service ▼
Proof of Service
02/02/2018 Answer ▼
Answer
02/13/2018 Proof of Service Summons ▼
Proof of Service Summons
02/14/2018 Notice ▼
Jury fee deposit

02/28/2018 Answer ▼

Answer

03/01/2018 Case Management Conference Statement ▼

Case Management Conference Statement

03/09/2018 Case Management Conference Statement ▼

Case Management Conference Statement

03/19/2018 Case Management Conference ▼

Non-Criminal: CMC Findings and Order

Judicial Officer

McCabe, Brian

Hearing Time

10:00 AM

Result

Heard / Held

Parties Present ▲

Defendant

Attorney: Buttry, William G

Defendant

Attorney: Buttry, William G

07/02/2018 Case Management Conference Statement ▼

Case Management Conference Statement

07/13/2018 Case Management Conference Statement ▼

Case Management Conference Statement

07/30/2018 Case Management Conference ▼

Non-Criminal: CMC Findings and Order

Judicial Officer

McCabe, Brian

Hearing Time

10:00 AM

Result

Heard / Held

Parties Present ▲

Defendant

Attorney: Buttry, William G

Defendant

Attorney: Buttry, William G

08/01/2018 Notice of Change of Address ▼

Notice of Change of Address

11/13/2018 Document: Other ▼

Substitution of Attorney

01/23/2019 Substitution of Attorney ▼

Substitution of Attorney

02/07/2019 Notice ▼

Notice

04/04/2019 Notice ▼

Notice Of Order Re Extension Of Automatic Stay To Non Debtor

06/21/2019 Notice ▼

Notice of Stay of Proceedings

08/05/2019 Mandatory Settlement Conference ▼

Judicial Officer

Saini, Monika

Hearing Time

9:00 AM

Cancel Reason

Off Calendar

09/24/2019 Jury Trial: Long Cause ▼

Judicial Officer

McCabe, Brian

Hearing Time

9:00 AM

Cancel Reason

Off Calendar

Financial

Freitas, Brian Anthony

Total Financial Assessment \$435.00

Total Payments and Credits \$435.00

2/5/2018 Transaction Assessment \$435.00

Pacific Gas and Electricity

Total Financial Assessment \$585.00

Total Payments and Credits \$585.00

2/5/2018 Transaction Assessment \$435.00

2/5/2018	EFile Payment	Receipt #	Pacific Gas and	(\$435.00)
		WEB-2018-02512	Electricity	

2/16/2018 Transaction Assessment \$150.00

2/16/2018	EFile Payment	Receipt #	Pacific Gas and	(\$150.00)
		WEB-2018-03149	Electricity	

Mello, Daryl Michael

Total Financial Assessment \$435.00

Total Payments and Credits \$435.00

3/1/2018 Transaction Assessment \$435.00

3/1/2018	EFile Payment	Receipt #	Mello, Daryl	(\$435.00)
		WEB-2018-04152	Michael	

Documents

Civil Case Cover Sheet
Complaint
Summons
Notice of Inclusion of CMC
Proof of Service
Answer
Proof of Service Summons
Jury fee deposit
Answer
Case Management Conference Statement
Case Management Conference Statement
Non-Criminal: CMC Findings and Order
Case Management Conference Statement
Case Management Conference Statement
Non-Criminal: CMC Findings and Order
Notice of Change of Address
Substitution of Attorney
Substitution of Attorney
Notice
Notice Of Order Re Extension Of Automatic Stay To Non Debtor
Notice of Stay of Proceedings